



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/569,002

02/15/2006

Mitsuhiro Kashiwabara

3712174.00518

1753

29175

7590

02/26/2010

K&L Gates LLP

P. O. BOX 1135

CHICAGO, IL 60690

EXAMINER

HOLLWEG, THOMAS A

ART UNIT

PAPER NUMBER

2879

NOTIFICATION DATE

DELIVERY MODE

02/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/569,002	Applicant(s) KASHIWABARA, MITSUHIRO	
	Examiner Thomas A. Hollweg	Art Unit 2879	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 11, 12, 14-18 and 20-23.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/NIMESHKUMAR D. PATEL/
 Supervisory Patent Examiner, Art Unit 2879

Continuation of 3. NOTE: The amendment to claim 23 changes the scope and requires further search.

Continuation of 11. does NOT place the application in condition for allowance because: With regard to the objection to claim 20 for lack of antecedent basis, it is presumed that the element named in line 21, "the blue light emitting light layer" is a misstatement of "the blue light emitting layer". This misstatement has not been corrected. Therefore, in the current version of claim 20, "the blue light emitting light layer" of line 21 lacks antecedent basis.

Applicant traverses that the 35 U.S.C. § 103(a) rejections because the prior art of record does not teach or suggest the specific color order of the light emitting layers between the anode and cathode. The applicant claims an order of red, green and blue (RGB). Yamazaki (US 2001/0031509 A1) teaches a device having the same structure as the claimed invention having three light emitting colors, red green and blue. Yamazaki does not teach a specific order for the three colors, but rather teaches that the three colors may be arranged in any order because the three layers contain the same host material and the color of each layer is determined by the fluorescent material doped into the host material.

One having ordinary skill in the art would understand that there are only 6 possible orders for the three colors between the anode and the cathode (RGB, RBG, GRB, GBR, BRG and BGR). Applicant's argument is that Yamazaki has no teaching or suggestion regarding any ordering of different colored emission layers, much less the specific ordering as presently claimed. The examiner respectfully disagrees with this argument. The basis of the 35 U.S.C. § 103(a) rejections is that because there are only 6 possible orders of the three colors between the anode and cathode, Yamazaki, having no teaching of a specific order, suggests that any of the 6 possible orders may be used by one having ordinary skill in the art.

Applicant further traverses that the 35 U.S.C. § 103(a) rejections because the independent claims require two materials in the green light emitting layer. However two separate materials are not expressly claimed. The claims only require that the green light emitting layer comprises a hole transporting material and an electron transporting material. Where a light emitting layer comprises a material, such as the material taught by Kobori et al., (U.S. 6,285,039), where the material is a hole transporting material and is an electron transporting material, this claim limitation is satisfied. For these reasons Applicant's arguments are not found to be persuasive.